

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 15-60783



A True Copy
Certified order issued Nov 03, 2017

Stacy W. Cayce
Clerk, U.S. Court of Appeals, Fifth Circuit

NATIONAL LABOR RELATIONS BOARD,

Petitioner

v.

M&B SERVICES, INCORPORATED; BERRY SERVICE, INCORPORATED,
(Berry I); BERRY SERVICES, INCORPORATED, (Berry II); BERRY
TRANSPORTATION, L.L.C.; MILTON BERRY; CAROLYN BERRY,

Respondents

Petition for Review of an Order of the
National Labor Relations Board

Before CLEMENT, ELROD and SOUTHWICK, Circuit Judges.

PER CURIAM:

The National Labor Relations Board (NLRB) has moved for entry of a default judgment adjudging Carolyn and Milton Berry (the Berrys) in civil contempt. The NLRB alleges that the Berrys have failed to comply with our January 6, 2016 Judgment and Order to make whole specified employees whom the Berrys have subjected to unfair labor practices. The NLRB also alleges that the Berrys have failed to comply with our May 25, 2017 Notice and

Order to Show Cause and have failed to otherwise respond to the NLRB's contempt petition.

Pursuant to our authority under Federal Rule of Appellate Procedure 48, we appointed Magistrate Judge Michael B. North to serve as a special master in this case. We referred the NLRB's motion to hold the Berrys in civil contempt to Judge North to recommend factual findings and a disposition of the motion. Counsel for the Berrys advised Judge North that the Berrys do not contest the NLRB's motion for entry of default judgment adjudging them in civil contempt. That being the case, Judge North recommended that the NLRB's proposed Default Contempt Adjudication be granted.

We adopt Judge North's findings and recommendation as our own. Accordingly,

IT IS ORDERED AND ADJUDGED that the Berrys are in civil contempt for having disobeyed, violated, and failed and refused to comply with the Judgment entered by us on January 6, 2016.

IT IS FURTHER ORDERED that the Berrys shall purge themselves of such contempt by paying to the NLRB the full amount due pursuant to the remedial provisions of the court's January 6, 2016 Judgment, or a total of \$223,243.55 plus interest, either by immediate payment in full or by monthly installment payments of not less than \$500 until that full amount is satisfied.¹

IT IS FURTHER ORDERED that upon the failure of the Berrys to purge themselves of contempt, we will issue a writ of body attachment against Milton Berry and/or Carolyn Berry, and take such other actions and

¹ After Magistrate Judge North issued his findings and recommendation, the NLRB responded requesting an increase in the amount of the monthly installment payments to \$850 and other forms of additional relief. However, the NLRB did not provide any evidence in support of the increase that was not available to it on July 17, 2017, when the NLRB filed its proposed default contempt order wherein the NLRB requested \$500 per month payments. Therefore, we deny the NLRB's request.

grant such other relief as may be just, reasonable, and proper to assure compliance with our January 6, 2016 Judgment and this Contempt Adjudication.

IT IS SO ORDERED.